

1998 Massachusetts Gun Control Legislation

During the summer of 1998, the Massachusetts Legislature enacted sweeping changes of the state's firearm laws. Applicants seeking information on the new laws are encouraged to review Chapter 180 (Acts of the Commonwealth 1998) and Massachusetts General Laws Chapter 140 and other related statutes. This application/information packet was designed to answer only generalized questions on the new laws for persons applying for **Licenses to Carry Firearms (LTC's)** and **Firearm Identification Cards (FID's)**. Chapter 180 of the Acts of 1998 is effective **October 21, 1998**.

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1. License to Carry Firearms (LTC):

There are now two classes of LTC firearms, Class A and Class B:

- A **Class A license** is required in order to carry any loaded firearm in a concealed manner in a public way or place. A **Class A license** authorizes the possession and carrying of large capacity firearms, rifles, shotguns and feeding devices. (A weapon is large capacity if it is a semiautomatic and has a feeding device of more than ten rounds of ammunition, or can hold more than five shotgun shells in the magazine of the shotgun).
- A **Class B license**, has been eliminated, all current Class B will remain valid until expiration date.
- No person under the age of 21 may be issued a **Class A**.
- LTC's have a six-year term and are renewable. They are subject to disqualifying factors by statute. In addition, the issuing authority has the right to screen suitable persons and restrict for proper purpose.
- The fee for a LTC is \$100.00. Retired Law enforcement will be \$25
- A certificate of completion of a basic firearm safety course is required.

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Disqualifying Factors per Massachusetts Law

A person is statutorily disqualified from obtaining a **Class A or B license** if:

- ❑ **Conviction of a Crime:** The applicant has, in any state or federal jurisdiction, been convicted as an adult, or adjudicated a youthful offender or delinquent child for the commission of (a) a felony; (b) a misdemeanor punishable by imprisonment for more than two years; (c) a violent crime; (d) a violation of any law regulating the use, possession, ownership, transfer, purchase, sale, lease, rental, receipt or transportation of weapons or ammunition for which a term of imprisonment may be imposed; (e) a violation of any law regulating the use, possession or sale of controlled substances as defined in M.G.L. Chapter 94C.
- ❑ **Hospitalization for Mental Illness:** The applicant has been confined to any hospital or institution for mental illness, unless the applicant submits an affidavit from a registered physician familiar with the applicant's illness stating that the applicant is not disabled in a manner that would prevent possessing a firearm.
- ❑ **Drug or Alcohol Addiction:** The applicant is, or has been, under treatment for or confinement for drug addiction or habitual drunkenness, unless the applicant is deemed cured of such a condition by a licensed physician. Such applicant may make application for such a license after the expiration of five years from the date of confinement or treatment upon presentment of an affidavit issued by a physician.
- ❑ **Must be 21:** The applicant cannot be less than 21 years of age.
- ❑ **Must be US Citizen/Resident Alien**
- ❑ **Abuse Prevention Order:** The applicant is currently subject to (a) an order for suspension or surrender pursuant to section 3B or 3C of M.G.L. Chapter 209A or a similar order issued by another jurisdiction; or (b) a permanent or temporary protection order issued pursuant to M.G.L. Chapter 209A or a similar order issued by another jurisdiction.
- ❑ **Outstanding Warrant:** The applicant is currently the subject of an outstanding arrest warrant in any state or federal jurisdiction.

Disqualifying Factors per Federal Law

Applicants should be aware that the U.S. Gun Control Act of 1968 (Federal Law) lists other disqualifiers for possession of firearms and ammunition. These disqualifiers will be considered when determining ***“a suitable person to be licensed”***. These include:

- ❑ A person convicted in any court of a crime punishable by imprisonment for a term exceeding one year.
- ❑ A fugitive from justice.

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- ❑ An unlawful user of, or addicted to, any controlled substance.
- ❑ A person having been committed to a mental institution.
- ❑ A person that has been discharged from the Armed Services under dishonorable circumstances.
- ❑ A person that has renounced their citizenship of the United States.
- ❑ A person that is subject to a domestic violence restraining order.
- ❑ A person that has been convicted in any court of a crime of domestic violence.

2. General Carrying Restrictions (Massachusetts Law)

- A person must have a **Class A license** in order to carry or possess a loaded firearm in a concealed manner in a public place or way.
- It is unlawful to carry a loaded firearm under a **Class A license** in a vehicle unless the firearm is under the direct control of the licensee.
- It is unlawful to carry a firearm under a **Class B license** in a vehicle unless it is unloaded and contained in the locked trunk or locked in a secure container.
- It is unlawful to possess a large capacity rifle or shotgun under a **Class A or Class B license** in a vehicle unless it is unloaded and contained in a locked trunk or locked in a secure container.
- It is unlawful for a licensed person to carry a loaded rifle or shotgun on a public way unless engaged in hunting and in possession of a hunting license.
- It is unlawful to carry a loaded weapon while under the influence of alcohol or drugs.

3. Firearm Identification Cards (FID)

- **FID – Unrestricted:**
 - a. Holders of an FID Card are entitled to purchase and carry and possess non-large capacity rifles, shotguns and ammunition in Massachusetts.
 - b. A holder of an FID Card is not entitled to possess large capacity firearms or feeding devices, or large capacity rifles or shotguns or large capacity feeding devices therefor. Exceptions exist for the possession of such firearms while at a licensed shooting club or range. **FID holders may not own or possess a handgun under new law.**
- **FID – Restricted:**

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- a) A restricted FID Card is no longer required to be obtained or possessed and carry “mace” or “pepper Spray”, otherwise known as “chemical spray”. Unless under the age of 18 or otherwise disqualified by law.

➤ Requirements for All FID Cards:

- a) Any person applying for an FID Card is required to provide a basic firearm safety certificate. A training certificate is not required for a restricted “chemical spray” FID Card.
- b) The fee for an FID Card is \$100.00 unless applicant is under 18, then the fee is \$25.00. The FID Card will be valid for not more than four years unless suspended or revoked.
- c) The fee for a restricted FID Card is \$25.00.

Disqualifying Factors per Massachusetts Law:

- ❑ **Conviction of a Crime:** An applicant has, ***in the court of the Commonwealth***, been convicted as an adult or adjudicated a youthful offender or delinquent child for the commission of: (1) a felony; (2) a misdemeanor punishable by imprisonment for more than two years; (3) a violent crime; (4) a violation of law regulating the use, possession, ownership, transfer, purchase, sale, lease, rental, receipt or transportation of weapons or ammunition for which a term of imprisonment may be imposed; (5) a violation of any law regulating the use, possession or sale of controlled substances, as defined in section 1 of Chapter 94C including, but not limited to, a violation under said Chapter 94C: provided, however, that except for the commission of a violent crime or crime involving the trafficking of weapons or controlled substances, if the applicant has been so convicted or adjudicated or released from confinement, probation or parole supervision for such conviction or adjudication, whichever is last occurring, not less than five years immediately preceding such application, such applicant’s right or ability to possess a non-large capacity rifle or shotgun shall be deemed restored in the commonwealth with respect to such conviction or adjudication and such conviction or adjudication shall not disqualify such applicant for a firearms identification card.
- ❑ **Conviction outside Massachusetts:** An applicant has, in ***any other state or federal jurisdiction***, been convicted as an adult or adjudicated a youthful offender or delinquent child for the commission of (1) a felony; (2) a misdemeanor punishable by imprisonment for more than two years, (3) a violent crime; (4) a violation of any law regulating the use and possession, ownership, transfer, purchase, sale, lease, rental, receipt or transportation of weapons or ammunition for which a term of imprisonment may be imposed; or (5) a violation of any law regulating the use, possession or sale of controlled substances as defined in section 1 of Chapter 94C; provided, however, that, except for the commission of a violent crime or a crime involving the trafficking of weapons or controlled substances, if the applicant has been so convicted or adjudicated or released from confinement, probation or parole supervision for such conviction or adjudication, whichever is last occurring, not less than five years immediately preceding such application, and such applicant’s right or ability to possess a rifle or shotgun has been fully restored in the jurisdiction wherein the subject conviction or adjudication was entered,

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such conviction or adjudication shall not disqualify such applicant for a firearm identification card.

- ❑ **Confinement for Mental Illness.** The applicant has been confined to any hospital or institution for mental illness, unless the applicant submits with his application an affidavit of a registered physician attesting that such physician is familiar with the applicant's mental illness and that in such physician's opinion the applicant is not disabled by such illness in a manner that should prevent the applicant from possessing a firearm, rifle or shotgun.
- ❑ **Drug or Alcohol Addiction.** The applicant is or has been under treatment for or confinement for drug addiction or habitual drunkenness, unless such applicant is deemed to be cured of such condition by a licensed physician, in which case the applicant may make application for such card after the expiration of five years from the date of such confinement or treatment and upon presentation of an affidavit issued by such physician to the effect that such physician knows the applicant's history of treatment and that in the physician's opinion the applicant is deemed cured.
- ❑ **Must be 15:** Applicant is at the time of application less than 15 years of age.
- ❑ **Parental Letter if Under 18:** Applicant at the time of application is more than 15 years of age, but less than 18 years of age, unless the applicant submits with his application a certificate (letter) from his parent or guardian granting the applicant permission to apply for a card.
- ❑ **Abuse Prevention Order:** Applicant is currently subject to; (1) an order for suspension or surrender issued pursuant to section 3B or 3C of Chapter 209A or a similar order issued by another jurisdiction; or (2) a permanent or temporary protection order issued pursuant to Chapter 209A or a similar order issued by another jurisdiction (domestic violence).
- ❑ **Outstanding Warrant:** Applicant is currently the subject of an outstanding arrest warrant in any state or federal jurisdiction.

4. Selected Definitions

- ***Firearm*** is defined as a pistol, revolver, or other weapon of any description, loaded or unloaded, from which a shot or bullet can be discharged and of which the length of the barrel or barrels is less than 16 inches, or 18 inches in the case of a shotgun, as originally manufactured; provided, however, that the term firearm shall not include any weapon that is: (1) constructed in a shape that does not resemble a handgun, short-barreled rifle or short-barreled shotgun including, but not limited to, covert weapons that resemble key-chains, pens, cigarette-lighters or cigarette packages; or (2) not detectable as a weapon or potential weapon by x-ray machines commonly used at airports or walk-through metal detectors.
- ***Shotgun*** is defined as a weapon having a smooth bore with a barrel length equal to or greater than 18" with an overall length equal to or greater than 26", capable of discharging

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a shot or bullet for each pull of the trigger. (A shotgun with a barrel length of less than 18" (*sawed-off shotgun*) cannot be possessed.

- **Rifle** is defined as a weapon having a rifle bore with a barrel length equal to or greater than 16", capable of discharging a shot or bullet for each pull of the trigger.
- **Assault weapon** shall have the same meaning as a semiautomatic assault weapon as defined in the Federal Public Safety and Recreational Firearms Use Protection Act, 18 U.S.C. section 921(a)(30).
- **Large capacity weapon** is defined as any firearm, rifle or shotgun: (1) that is a semiautomatic with a fixed large capacity feeding device; (2) that is a semiautomatic and capable of accepting, or readily modifiable to accept, any detachable large capacity feeding device; (3) that employs a rotating cylinder capable of accepting more than 10 rounds of ammunition in a rifle or firearm and more than 5 shotgun shells in the case of a shotgun.
- **Large capacity feeding device** is defined as a fixed or detachable device capable of accepting, or readily converted into accepting, more than ten rounds of ammunition for firearms and rifles and more than 5 shotgun shells for shotguns.
- **Violent crime** is described as any crime involving the use, or attempted or threatened use of force against the person, or explosives, or is burglary, arson, extortion, kidnapping, or poses serious risk of injury to another.

5. Transition (Grandfather) Provisions

- FID Cards issued prior to October 21, 1998 have expired. Applicants with a recently expired FID may request a renewal.
- An FID Card possessed on October 21, 1998 by a person in lawful possession of a large capacity rifle or shotgun shall be considered a **Class B License** for possession purposes.
- A License to carry possessed on October 21, 1998 by a person in lawful possession of a large capacity firearm shall be considered a **Class A License**.
- A person who lawfully owned a firearm, rifle, shotgun, feeding device and/or ammunition on October 21, 1998 must reapply for an appropriate Class A, Class B or FID. If a license is denied, suspended or revoked, then the firearm, rifle, shotgun, feeding device and/or ammunition must be lawfully transferred to a properly licensed person or surrendered to the Lexington Police Department.

6. Other Notable Changes in the New Law

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- Consistent with current law, a person that holds an unrestricted FID Card may apply for a **Permit to Purchase** to consummate a one-time purchase of a firearm to be used solely for protection in the home. The application criteria are identical to an LTC and the licensing authority can impose restrictions on the caliber and capacity of the weapon the applicant can purchase.
- Safe storage of guns is required. Gun owners must keep guns away from children under the age of 18 by storing them in places not accessible to such children or securing them in locked containers. Violations of this provision can lead to fines and/or imprisonment. Moreover, improper storage shall be evidence of “wanton or reckless” conduct in cases where the failure to safely store the weapon leads to the injury or death of another. This standard may be used in either criminal or civil action.
- There are now strict penalties for violation of the **Assault Weapon Ban**.
- Numerous existing criminal statutes have been amended to increase the penalties if firearms are used during the commission of the crime. In many instances mandatory terms of imprisonment are included.
- **Gadget guns or covert weapons** that are undetectable by metal detectors and x-ray machines and are disguised as other innocuous items as key-chains, cigarette lighters and pens are unlawful to sell, transfer or possess.
- **Saturday night specials** or cheaply made inferior guns (which fail certain standards and performance tests) are prohibited from sale. Those guns already lawfully owned by licensed individuals are grandfathered and not affected.
- The law creates a general prohibition for anyone to carry a loaded firearm while under the influence of intoxicating liquor or drugs.
- The Lexington Police Department will accept firearms, rifles, shotguns, and ammunition for submission to the State Police for destruction.
- There are new **Firearms Sale/Rental/Lease Transaction Forms** that replace the obsolete FA-1, FA-2 and FA-10 forms.

7. Lexington Police Department Licensing Requirements

- The written application is enclosed with this informational packet.
- **New** LTC applicants must submit a letter attached to the application explaining the reasons for desiring a LTC. This is not necessary for FID Cards.
- **New** applicants for LTC's must submit written references from two persons, who are known to or otherwise found satisfactory by the issuing authority, stating that the applicant is of sound mind and character and is believed by the reference to be a proper person with a suitable purpose to possess such a license. The written reference letters must be attached to the application.

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- **All** applicants must specify what type of permit, license or card they are seeking. The Lexington Police Department reserves the right (by law) to restrict LTC's. We will issue for:
 - ❑ All lawful purposes (formerly protection of life and property)
 - ❑ Target
 - ❑ Target & Hunting
 - ❑ Employment purposes (must submit letter from employer stating that a firearm is a requirement for employment.)
- **All** applicants must include \$100.00 (check or money order made payable to "Town of Lexington") when interview/application is submitted. The fee is non-refundable in the event of denial. \$ (No renewal fees for "restricted chemical spray FID Cards" and for permit renewals for persons over 70 years of age.)
- Training certificate, the \$100.00 fee and any other required enclosures) can be mailed or dropped off in person at the police station. A police representative will contact the applicant for an appointment for permit processing (which includes fingerprinting). You will be notified in writing in the event that your license/card request is denied. An approved permit will generally be mailed to the applicant within 40 days of application.
- Questions, comments or requests for appointments can be directed to:

**Lt. Detective James Barry
(781) 862-1212
Lexington Police Department
1575 Mass Avenue
Lexington, Ma 02420-3889**

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